

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

April 26, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

SPECIAL MEETING MINUTES OF MARCH 30, 2006

MINUTES OF APRIL 12, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2006 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2005/06 BUDGET
(Review and discuss budget issues for this fiscal year.)
3. 2006/07 BUDGET
(Review and discuss budget issues for this fiscal year.)

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4. Public Record Act Policy per Executive Order S-03-06

CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

BOARD MEMBERS' REPORTS

(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

APPEALS

(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years)

Intents to Appeal in April 2006	_____
Total Intents to Appeal to date	_____
Appeals Docketed in April 2006	_____
Total Appeals Docketed to date	_____
Appeals Packets Completed in April 2006	_____
Total Appeals Packets Completed to date	_____

	2001	2002	2003	2004	2005	2006
January	387	586	482	357	422	405
February	302	420	405	421	435	320
March	421	320	470	513	400	
April	372	559	526	416	406	

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May	612	589	359	325	187	
June	421	384	446	486	517	
July	410	511	367	320	372	
August	549	426	345	386	345	
September	350	374	448	269	380	
October	482	438	435	425	346	
November	507	368	331	332	326	
December	447	389	621	509	442	
TOTAL	5255	5367	5235	4762	4651	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, May 10, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information
Contact**

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2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751

oshappeals@dir.ca.gov

<http://www.dir.ca.gov/oshappeals/>

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State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
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Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, April 26, 2006
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: April 14, 2006

RE: Closed Session of the Board on April 26, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. OLSEN STEEL, 03-R6D2-3700

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. A-1 FENCE, 05-R1D1-1851
2. A.J. DIANI CONSTRUCTION COMPANY, INC., 03-R4D5-4261 AND 4262

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3. A-PLUS SIGNS, INC., 05-R2D1-1284
4. AMERI-BRAND PRODUCTS INC., 05-R2D3-505 THROUGH 507
5. AMERICAN FABRICATION, 05-R6D2-755 THROUGH 759
6. AMERICAN METAL RECYCLING, 04-R3D3-4239
7. AMERICAN SERVICES GROUP OF CALIFORNIA, INC., 03-R4D3-4021
8. ARGOS SIGN AND MAINTENANCE CO., 05-R3D7-812
9. ART CRAFT PAINT INC., 05-R4D1-234
10. ATL INC. dba ROBERTSON CAR WASH, 05-R4D1-813 THROUGH 817
11. AVERY DENNISON INC., 05-R3D3-1248
12. BDK TRUCKING, 05-R3D1-2924
13. BAGELS ON THIRD, 04-R4D1-3353 AND 3354
14. BAR CAL STEEL COMPANY, 05-R1D4-934
15. BLOIS CONSTRUCTION INC, 05-R4D3-4295 THROUGH 4297
16. BRAVO PROGRAMS, 05-R2D3-1165
17. BRAVO ROOFING, INC., 05-R3D3-3958 THROUGH 3961
18. CKL CONSTRUCTION, INC., 03-R1D4-4630 AND 4631
19. CST ENVIRONMENTAL INC., 05-R4D4-555 THROUGH 559
20. CALIFORNIA DEPARTMENT OF FORESTRY, 05-R2D5-3426
21. CARLTON FORGE WORKS, 05-R4D4-744
22. CARMENITA FORD TRUCK SALES, INC., 05-R4D4-242 AND 243
23. CASTILLO DEL MAR, 05-R3D1-207 THROUGH 209
24. CHIQUITA CANYON LANDFILL, 03-R4D3-3799 AND 3800
25. CLEAN AIR POWER INC., 04-R6D2-4218 THROUGH 4223

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26. COMMERCIAL & INDUSTRIAL ROOFING CO., 05-R3D2-218 THROUGH 220
27. CONCORD IRON WORKS, INC., 05-R1D2-1568
28. CONCORD IRON WORKS, INC., 05-R1D5-3655 THROUGH 3657
29. COVE WEST, 04-R3D5-4557 THROUGH 4559
30. D AND D CONSTRUCTION SPECIALTIES, 04-R4D3-2781 AND 2782
31. DENARDI MACHINERY, INC. dba D3 EQUIPMENT, 06-R3D3-252 AND 253
32. DON LEE FARMS, 05-R4D1-233
33. DUTRA STEEL INC., 05-R2D3-2083
34. DUTRA STEEL INC., 05-R2D3-2084 AND 2085
35. ENER-TECH METALS, INC., 03-R4D4-4037 THROUGH 4041
36. ENNS PACKING CO., INC., 05-R2D5-445
37. EURO DESIGN CABINETS, INC., 05-R3D1-4257 THROUGH 4259
38. EXCEL CABINETS INC., 05-R6D2-926 THROUGH 928
39. FABER CONSTRUCTION, 05-R1D5-2075 AND 2076
40. FOSTER FARMS DAIRY, 05-R2D4-2503 THROUGH 2505
41. FRONTIER CONTRACTING, INC., 04-R1D5-3564 THROUGH 3566
42. GOODRICH, 05-R3D2-214
43. HCI, INC., 05-R3D2-721 THROUGH 723
44. HARWOOD PRODUCTS, 03-R1D5-2513
45. HEWLETT-PACKARD COMPANY, 05-R1D2-1569
46. HUGHSON NUT COMPANY, INC., 03-R2D4-2417
47. INTERCARD HOLDINGS, INC. dba INTERCARE INSURANCE SERVICES, 05-R2D1-1876
48. LARRY JACINTO dba JACINTO CONSTRUCTION, 05-R3D3-995

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49. JOHN F. OTTO/ARB A JOINT VENTURE, 03-R2D1-2401 AND 2402
50. KEVIN LAW dba KAL CONSTRUCTION, 03-R4D1-3977 AND 3978
51. KINCAID & DECKER/WOODMART WINDOW COVERINGS, 03-R4D3-4601 AND 4602
52. LABOR READY SOUTHWEST, INC. dba LABOR READY, 04-R3D2-3585
53. LABOR READY, INC. dba LABOR READY SOUTHWEST, INC., 03-R3D2-3789
54. LABOR READY SOUTHWEST, INC., 03-R3D2-3788
55. LEGENDARY HOLDINGS, INC., 05-R3D2-4112 THROUGH 4116
56. LEN STEVENS CONSTRUCTION, 03-R2D1-3883
57. JEFF LIU dba J. ELECTRIC SERVICE, 05-R4D4-749 THROUGH 750
58. LOS ANGELES COUNTY DEPART OF PUBLIC SERVICES, 05-R4D2-235
59. MAJESTIC POOLS & SPAS, 05-R4D3-553 AND 554
60. MASTERWORK UNLIMITED, 04-R4D2-3371 THROUGH 3372
61. MORRIS LEVIN & SON, 03-R2D5-2852 THROUGH 2854
62. MORROW MEADOWS CO., 05-R4D2-831
63. NAOS FORGE, 05-R4D3-552
64. ORCO BLOCK CO INC, 06-R3D3-147
65. ORO LOMA RANCH, LLC, 05-R2D5-1592
66. PERFECT TOUCH CONSTRUCTION, 05-R1D4-2191 THROUGH 2195
67. PRODUCTION FRAMING SYSTEMS, INC., 04-R2D1-4030
68. PULL TARPS MANUFACTURING, 05-R6D2-176 THROUGH 180
69. RICHARD HANCOCK, INC., 05-R1D5-944
70. RUBEN MIRONOWSKI CONSTRUCTION, 04-R2D5-1173

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71. SIERRA PACIFIC INDUSTRIES, 05-R2D3-1887
72. STETON CONSTRUCTION GROUP, 06-R3D5-330
73. STRONG HOLD ENGINEERING, 05-R3D3-725 AND 726
74. SUNSHINE PLASTICS CORP., 05-R4D4-1214 THROUGH 1218
75. T S LEASING OPERATION, INC., 05-R2D5-2659
76. TOWER STRUCTURES INC., 03-R4D3-4022
77. TURELK INC., 05-R3D1-985
78. UNILEVER, 04-R4D4-4203 THROUGH 4205
79. UNIVERSITY OF SOUTHERN CALIFORNIA, 05-R4D1-537 AND 538
80. W.D. YOUNG & SONS, 05-R3D3-2832
81. WARNOCK FOOD PRODUCTS, INC., 03-R2D5-3070
82. WESTERN PAINTING & WALLCOVERING, INC., 03-R4D3-4960
83. WEYERHAEUSER CO., 05-R6D2-1396
84. WIESEN CONSTRUCTION, 05-R3D1-988
85. WRIGHT'S CABINETS, INC., 03-R2D4-2412 AND 2413
86. WRIGHT'S CABINETS, INC., 03-R2D4-2414 AND 2415

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

NONE

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. FRONTIER CONTRACTING, INC., 03-R1D5-3063

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DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

ACE LATH & PLASTERING, 01-R6D1-4798 through 4806
B & T INDUSTRIES, 03-R6D1-847 THROUGH 852
BLF FRAMING, 02-R4D3-1837 & 1838
BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
BEHAVIORAL HEALTH SERVICES, INC., 01-R3D5-3995 through 3997
BILL CALLAWAY & GREG LAY dba WILLIAMS REDI MIX, 03-R2D1-2400
BLUE DIAMOND MATERIALS, 02-R5D2-1268
BORDEN MANUFACTURING, 04-R2D3-4390
CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
COX COMMUNICATIONS, 03-R3D2-1942
D.F. TECHNODIESEL, 03-R1D2-4619
DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
HEARN CONSTRUCTION, INC., 02-R6D1-3533 through 3536
HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ILH CONSTRUCTION, 02-R1D1-4171 & 4172
IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 through 2780
J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
JAMES HIGBY ENGINEERING, 02-R4D3-4562 through 4567
JERLANE, INC., dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344
K. A. BINE CONSTRUCTION, 03-R1D5-2031
KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
KEYSOR-CENTURY CORPORATION, 02-R3D7-745 through 771
KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 through 1209 & 02-1273
KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
LONG BEACH CITY COLLEGE, 03-R3D5-2747
LOWPENSKY MOULDING, 03-R1D1-3405
MCI WORLDCOM INC., 00-R1D1-440 through 442
MEDALLION INDUSTRIES, INC., 02-R6D1-2825 through 2830
MORILLO CONSTRUCTION, 03-R4D2-1218 through 1222
McDONALDS #10660, 03-R1D3-4116 & 4117
NEW ENGLAND SHEET METAL WORKS, 02-R2D5-2091
NIBBLELINKS MASONRY CONSTRUCTION, 02-R3D3-1399 through 1401
NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 through 202
PMR RACE CARS, 03-R3D3-1824 & 1825
POUK & STEINLE, INC., 03-R4D2-1495 & 1496
RII PLASTERING INC., 02-R3D1-2679
RAMONA EQUIPMENT RENTAL, INC., 02-R3D2-2944 through 2948

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SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 through 1656
SHEFFIELD FURNITURE CORPORATION, 00-R6D2-1322 et. al. & 01-1397
SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
STILES PAINT MANUFACTURING, 02-R1D4-1630
STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
TRIO METAL, 03-R4D4-0316 & 0317
UNITED AIRLINES, 00-R1D5-2844
WAREHOUSE DEMO SERVICES, 03-R1D4-3427
WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. UNDERGROUND CONST. CO. 02CS00708 (00-2356)
3. DSS ENG. CONTRACTORS, 02CS00928 (99-1023)
4. CASTLE PRECISION INDUSTRIES, C02CS01896 (01-652/56)
5. TUTOR-SALIBA-PERINI (03CS803), 03CS00202 (97-3209/12)
6. SUNRISE WINDOW CLEANERS, INC., 03CS00300 (00-3220/21)
7. TEICHERT AGGREGATES, 03CS00659 (01-1193)
8. VANCE BROWN BUILDERS, 03CS00660 (00-3318/19)
9. BENICIA FOUNDRY/IRON WORKS, 03CS00802 (00-2976/2987)
10. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
11. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
12. ARB, INC., 03CS01454 (01-2119)
13. MOUNTAIN CASCADE, 03CS01655 (01-3561)

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14. RUDOLPH & SLETTEN, 04CS00540 (01-478)
15. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
16. MATAROZZI-PELSINGER BUILDERS, 04CS01204 (01-1400)
17. BLF FRAMING, INC., 04CS01618 (02-1837/38)
18. C DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT:

1. SULLY MILLER CONTRACTING CO., C049013 (01CS01669) 99-896
2. BRAGG CRANE, (LA) B182094 (BS091587) 01-2428
3. BEUTLER HEATING & AIR, C050020 (01CS01762) 98-014
4. MOUNTAIN CASCADE, C050452 (01CS01811) 99-1024
5. TEICHERT CONSTRUCTION, C050709(02CS00517) 98-2512
6. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
7. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

SIGNIFICANT LITIGATION REPORT

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OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.

DRAFT